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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,264	07/03/2003	Michael S. Rodgers	03353.49547	7794

7590 09/14/2006

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EXAMINER

NGUYEN, CHI Q

ART UNIT PAPER NUMBER

3635

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,264	Applicant(s) RODGERS ET AL.	
	Examiner Chi Q. Nguyen	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner acknowledges applicant's amendment and remarks filed on 11/14/2005. Accordingly amendments have been made to the specification and claims 1, 2, 5, and 6; claims 11-17 have been withdrawn.

Response to Arguments

Applicant's arguments filed 11/14/2005 have been fully considered but they are not persuasive.

Regarding applicants arguments to claims 1, 2, 4, 8, and 10:

Applicant argues that the structures of Graulich are not arranged as required by applicant's claims stating that "unlike applicant's invention, attachment of the concrete reinforcing sheet 10 to the furring channels 5 of the Graulich reference do not create applicant's segmented form which retains a significant amount of a lightweight concrete slurry until cured".

Examiner never suggested that which applicant is arguing. Examiner directs applicant's attention to the office action dated 7/11/2005 in which examiner maintains that the support members 4 and lath 2 of Graulich form a segmented form. Further examiner points out that the limitations in the claim that the retaining layer system be "configured to" retain a concrete slurry and support said concrete during curing is a functional limitation and Graulich discloses a structure that is capable of being used as claimed.

Applicant argues that the Graulich structure is unable to perform as applicant's invention, stating that the furring channels do not make up a frame by which to hold a

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lightweight cement slurry, and of significance is the lack of attachment of the reinforcing sheet to the studs 4 rendering the elements unable to perform as applicants invention.

Examiner points out that it was never suggested that the furring channels 5 make up a frame by which to hold a lightweight cent slurry, but instead it was suggested that the studs 4 and lath 2 are capable of holding a cement slurry (as claimed). Further, examiner points out that the lath 2 is attached to studs 4 and is capable of performing as applicant's invention (reference fig. 1, the far right studs 4 and lath 2 where the lath is attached to the stud partway down the stud).

Regarding applicant's arguments to claims 2 and 7:

Applicant argues that Graulich does expressly or inherently describe a "lightweight cement slurry barrier".

Examiner points out that the claimed limitations merely require "a barrier", and since Graulich discloses a barrier the claimed limitations are met.

Regarding applicant's arguments to claims 4 and 10 that the Graulich prior art does not expressly or inherently describe applicant's covering.

Examiner points out that claims 4 and 10 require a covering attached to an upper surface of the lightweight concrete which is not positively claimed and therefore are treated as an intended use limitation, of which the structure of Graulich is capable.

Regarding applicant's argument to claim 8 that Graulich does not expressly or inherently describe the insulative barrier as claimed. Applicant does state that Graulich discloses a radiant barrier with a highly reflective surface that overlays insulation board.

Examiner points out that the claim limitations merely require a barrier that has insulative qualities. The radiant barrier of Graulich has insulating qualities as disclosed in col. 2, lines 35-38, and as pointed out applicant, in that the highly reflective surface increases thermal resistance, which is an insulative quality.

Applicant's arguments with respect to claims 3 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Examiner notes that while Graulich does not disclose an invention that is either a wall (with the support members being vertical) or a horizontal slab (with the support members being horizontal), it appears from the drawings that the disclosed invention is drawn to a wall construction. Applicant's lack of argument regarding the prior art rejection of Graulich to claims 1-4, specifically to the claimed features of a horizontal slab and horizontal support members, is taken as an affirmation of the rejection of the previous office action pertaining to the above mentioned claimed feature.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Graulich (US 5,522,194).

Regarding claims 1, and 5, Graulich teaches a structural wall system comprising a plurality of spaced apart horizontal support members 4, each having a lower region,

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and a retaining layer system further comprising a lath 2 extending across and attached to the lower region to form a segmented form, the lath 2 having a plurality of aperture which inherently allow small amount of the concrete slurry to exude through said lath (see fig. 1). Since Graulich teaches the similar structures of the applicant's claimed invention thus it capable of performing the same function such as to simultaneously retain a significant amount of lightweight concrete slurry poured within said segmented form, and support said lightweight concrete during curing to form the horizontal slab.

Regarding claim 2, Graulich teaches the claimed invention as stated wherein said retaining layer system further comprises a barrier 18 disposed between the laths 2, concrete insulation.

Regarding claims 3-4, and 10 Graulich teaches the claimed invention as stated wherein the lightweight concrete, having an insulative material in contact with at least one surface, and a covering 1 is attached to an upper surface of the lightweight concrete (fig. 1).

Regarding claim 6, Graulich teaches the claimed invention as stated wherein the layer system further comprises a form wall 14 extends across the plurality of support members on at least one the outer regions opposite the lath 2 (figure 1).

Regarding claim 7, Graulich teaches the claimed invention as stated wherein a barrier 18 is disposed between the latch and the concrete.

Regarding claim 8, Groulich teaches the claimed invention as stated wherein the barrier inherently has insulative qualities.

Regarding claim 9, the structure of claim 5 above, where an insulative material (18, which is insulative in that it increases thermal resistance) is positioned within said segmented form.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached at (571) 272-6848.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

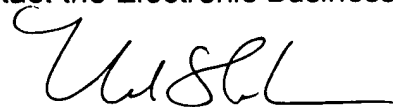
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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

on

CN

9/11/2006



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